

FILED

MAR 04 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2011-5539

12 **JACKIE Y. BAE**
13 **A.K.A. JACKIE YOUNG BAE**
207 Midwick Drive
14 Milpitas, CA 95035

A C C U S A T I O N

15 **Vocational Nurse License No. VN 242815**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
21 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
22 Technicians, Department of Consumer Affairs.

23 2. On or about June 16, 2009, the Board of Vocational Nursing and Psychiatric
24 Technicians issued Vocational Nurse License Number VN 242815 to Jackie Y. Bae, also known
25 as Jackie Young Bae (Respondent). The Vocational Nurse License was in full force and effect at
26 all times relevant to the charges brought in this Accusation and will expire on July 31, 2014,
27 unless renewed.

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4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2892.1 of the Code provides, in pertinent part, that the Board may renew an expired license at any time within four years after its expiration.

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"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction."

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

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1 administer to another, any controlled substance as defined in Division 10 of the Health and Safety
2 Code, or any dangerous drug as defined in Section 4022.

3 "(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code,
4 or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a
5 manner dangerous or injurious to himself or herself, any other person, or the public, or to the
6 extent that the use impairs his or her ability to conduct with safety to the public the practice
7 authorized by his or her license.

8 "(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous
9 drug, or the prescription, consumption, or self-administration of any of the substances described
10 in subdivisions (a) and (b) of this section, in which event the record of the conviction is
11 conclusive evidence thereof."

12 9. Section 490 of the Code provides, in pertinent part, that a Board may suspend or
13 revoke a license on the ground that the licensee has been convicted of a crime substantially
14 related to the qualifications, functions, or duties of the business or profession for which the
15 license was issued.

16 10. California Code of Regulations, title 16, section 2521, states, in pertinent part:
17 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
18 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
19 considered to be substantially related to the qualifications, functions or duties of a licensed
20 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
21 vocational nurse to perform the functions authorized by his license in a manner consistent with
22 the public health, safety, or welfare."

23 COST RECOVERY

24 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 DRUGS

2 12. "Methamphetamine" is a Schedule II controlled substance as designated by Health
3 and Safety Code section 11055(d)(2) and a dangerous drug pursuant to Business and Professions
4 Code section 4022.

5 FIRST CAUSE FOR DISCIPLINARY ACTION

6 (Substantially Related Conviction)
7 (Bus. & Prof. Code §§ 490, 2878, subd. (f))

8 13. Respondent has subjected her Vocational Nurse License to disciplinary action under
9 Code sections 490 and 2878, subdivision (f), and California Code of Regulations, title 16, section
10 2521, in that she was convicted of a crime substantially related to the qualifications, functions, or
11 duties of a vocational nurse. Specifically, on or about August 1, 2012, in the Superior Court of
12 California, County of Alameda, Case Number 141088, entitled *The People of the State of*
13 *California v. Jackie Y. Bae*, Respondent was convicted by her plea of no contest of violating
14 Vehicle Code section 23103/23103.5 (wet reckless), a misdemeanor. Respondent was placed on
15 probation for 3 years, upon terms and conditions which included, but were not limited to, the
16 following: serve 1 day in County Jail, with credit for time served of 1 day; serve 20 days through
17 Weekend Work Program; pay total fine of \$2000; do not drive any motor vehicle unless lawfully
18 licensed and insured, and without any measurable amount of alcohol; and attend and complete 9
19 months DUI (Driving Under the Influence) school. The factual circumstances of the conviction
20 are as follows:

21 a. On or about June 2, 2012, a Pleasanton Police Department (PPD) officer pulled over
22 Respondent, who was driving a green Jeep. The PPD officer noticed that Respondent was
23 wearing a bracelet typically worn by patrons of local bars. Respondent told the PPD officer that
24 she was coming from a friend's house. The PPD officer noticed that Respondent's eyes were
25 bloodshot and watery, and detected the strong odor of an alcoholic beverage coming from the
26 vehicle. Respondent told the PPD officer that she had consumed one beer and admitted that she
27 was coming from a bar. Respondent performed poorly on a series of standardized field sobriety
28 tests (SFSTs) and took breath tests (PAS), which showed that her blood alcohol content (BAC)
was .93% and .101 %. Based on Respondent's objective symptoms of alcohol intoxication, her

1 poor performance of the SFSTs, and her PAS results, the PPD officer concluded that Respondent
2 was driving under the influence of alcohol, and arrested her. Once in custody, Respondent's
3 PAS's results showed her BAC to be .09% and .09%.

4 SECOND CAUSE FOR DISCIPLINARY ACTION

5 ((Unprofessional Conduct - Used Alcohol to a Dangerous Extent)
6 (Bus. & Prof. Code §2878.5 subd. (b))

7 14. The allegations of paragraph 13 are realleged and incorporated by reference as if fully
8 set forth.

9 15. Respondent has subjected her Vocational Nurse License to disciplinary action
10 under section 2878.5, subd. (b), of the Code on the grounds of unprofessional conduct in that on
11 or about June 2, 2012, Respondent used alcohol to an extent or in a manner dangerous or
12 injurious to herself, any other person, or the public, as set forth in paragraph 13, above.

13 THIRD CAUSE FOR DISCIPLINARY ACTION

14 (Unprofessional Conduct - Conviction Involving Alcohol)
15 (Bus. & Prof. Code §2878.5, subd. (c))

16 16. The allegations of paragraph 13 are realleged and incorporated by reference as if
17 fully set forth.

18 17. Respondent has subjected her Vocational Nurse License to disciplinary action under
19 section 2878.5, subdivision (c), of the Code on the grounds of unprofessional conduct, in that on
20 or about August 1, 2012, Respondent was convicted of a crime involving the consumption of
21 alcohol, as set forth in paragraph 13, above.

22 MATTERS IN AGGRAVATION

23 18. Complainant realleges the allegations set forth in paragraphs 13, 14, 15, 16 and 17
24 above, which are incorporated by reference as if fully set forth.

25 19. Complainant alleges, by way of aggravation of any penalty to be imposed in this
26 matter, that the following conduct may be considered:

27 a. On or about February 8, 2005, in the Superior Court of California, County of Santa
28 Clara, Case Number CC577234, entitled *The People of the State of California v. Jackie Young Bae*, Respondent was convicted by her plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content of .08% or more), a misdemeanor.

1 The imposition of sentence was suspended, and Respondent was placed on probation for 3 years
2 upon terms and conditions, which included, but were not limited to, the following: serve 6 days
3 in Weekend Work Program; pay a fine of \$1,340; do not drive without valid driver license or
4 insurance; and enroll in 3 month DUI program within 30 days. The factual circumstances of this
5 conviction are that on or about November 28, 2004, Respondent drove her vehicle while having a
6 BAC of 0.08% or more.

7 b.. On or about May 12, 1997, in the Superior Court of California, County of Santa
8 Clara, Case Number C9735052, entitled *The People of the State of California v. Jackie Y. Bae*,
9 Respondent was convicted by her plea of nolo contendere of violating Health and Safety Code
10 section 11550, subdivision (a) (using or being under the influence of a controlled substance), a
11 misdemeanor. Respondent was placed on probation for 2 years, upon terms and conditions which
12 included, but were not limited to, the following: serve 90 days in County Jail, suspended on
13 condition of completing drug program; pay a fine of \$270; submit person, vehicle, residence to
14 search or seizure at any time without benefit of warrant; and register as a drug offender pursuant
15 to Health and Safety Code section 11590. The factual circumstances of this conviction are that on
16 or about March 12, 1997, Respondent's five year old son was taken to the Milpitas Police
17 Department (MPD) station by his grandfather because the five year old was found crying and
18 unattended outside Respondent's house. On or about March 13, 1997, Respondent went to MPD
19 station and claimed that she thought that her son was being cared for by a family member.
20 Respondent's son was later released to the custody of his father. A MPD officer noticed that
21 Respondent displayed objective symptoms of being under the influence of a controlled substance.
22 The MPD officer observed that Respondent's eyes were dilated, and she had a high pulse of 158
23 beats per minute, consistent with being under the influence of a controlled substance.

24 Respondent was arrested for being under the influence of a controlled substance. A blood sample
25 showed that Respondent was under the influence of Methamphetamine, a controlled substance.

26 c. On or about May 12, 1997, in the Superior Court of California, County of Santa
27 Clara, Case Number C9686536, entitled *The People of the State of California v. Jackie Young*
28 *Bae*, Respondent was convicted by her plea of nolo contendere of violating Health and Safety

1 Code section 11550, subdivision (a) (using or being under the influence of a controlled
2 substance), a misdemeanor. The imposition of sentence was suspended, and Respondent was
3 placed on probation for 2 years upon terms and conditions, which included, but were not limited
4 to, the following: serve 90 days in County Jail, submit person, vehicle, residence to
5 search/seizure at any time without benefit of a warrant; and registrar as drug offender pursuant to
6 Health and Safety Code section 11590, subdivision (a). The factual circumstances of this
7 conviction are that on or about March 11, 1996, in Santa Clara County, Respondent used and was
8 under the influence of, Methamphetamine, a controlled substance.

9 d. On or about October 2, 1996, in the Superior Court of California, County of Santa
10 Clara, Case Number C9686536, entitled *The People of the State of California v. Jackie Young*
11 *Bae*, Respondent was convicted by her plea of nolo contendere of violating Vehicle Code section
12 23152, subdivision (b) (driving with a blood alcohol content of .08% or more). Respondent was
13 placed on probation for 3 years upon terms and conditions, which included, but was not limited
14 to, the following: serve 48 hours in County Jail; pay a fine of \$1,080; and enroll in a 3 month
15 DUI program within 30 days. The factual circumstances of this conviction are that on or about
16 March 11, 1996, Respondent drove her vehicle while having a BAC of 0.08% or more.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
20 issue a decision:

21 1. Revoking or suspending Vocational Nurse License Number VN 242815, issued to
22 Jackie Y. Bae;

23 2. Ordering Jackie Y. Bae to pay the Board of Vocational Nursing and Psychiatric
24 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
25 Business and Professions Code section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: **MAR 04 2013**



TERESA BELIO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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